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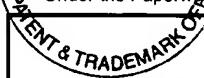
PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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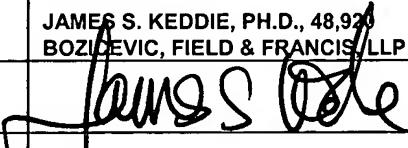
 <p><b>TRANSMITTAL FORM</b></p> <p><i>(to be used for all correspondence after initial filing)</i></p>		Application Number	10/638,210
		Filing Date	August 7, 2003
		First Named Inventor	ZHANG, DONGXIAO
		Group Art Unit	1644
		Examiner Name	Dibrino, Marianne Nmn
Total Number of Pages in This Submission	5	Attorney Docket Number	EPIT-001

**ENCLOSURES (check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1) Response to Restriction Requirement (4 pgs.) 2) Return Postcard
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Remarks

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Signing Attorney/Agent (Reg. No.)	JAMES S. KEDDIE, PH.D., 48,920 BOZIC EVIC, FIELD & FRANCIS, LLP
Signature	
Date	June 26, 2006

**EXPRESS MAIL LABEL NO. EV 687 637 700 US**

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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<b>RESPONSE TO RESTRICTION REQUIREMENT</b>	Docket No.	EPIT-001
Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application No.	10/638,210
	Confirmation No.	5792
	Filing Date	August 7, 2003
	Examiner	Dibrino, Marianne Nmn
	Group Art Unit	1644

Sir:

This communication is submitted in response to the Restriction Requirement dated May 31, 2006.

In the Restriction Requirement, the Examiner required election of one of the following groups of claims:

- Group I: Claims 1-13, drawn to methods for resurfacing a rabbit antibody;
- Group II: Claim 14, drawn to a resurfaced antibody;
- Group III: Claims 15-18, drawn to a nucleic acid encoding a resurfaced antibody; and
- Group IV: Claims 19 and 20, drawn to a method of making an antibody.

The Applicants hereby elect **Group I**, with traverse.

The MPEP allows an Examiner to examine otherwise patentably distinct sets of claims if to do so would not impose an undue burden on the Examiner. M.P.E.P. § 8.03 states that:

**If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.**

In the present case, the claims of remaining groups include all of the elements found in the claims of Group I. As such, the search for the claims of Group I will find any relevant prior art relating to the claims of the remaining groups.

As such, examining the claims of the remaining groups and the claims of elected Group I together in the present application clearly does not impose an undue or serious burden on the

Examiner. In the absence of such an undue or serious burden, the Examiner is clearly instructed by the MPEP to examine the entire application. Therefore, the Examiner is respectfully requested to rejoin the claims of the remaining groups with the claims of elected Group I and to examine all the claims together in the present application.

In addition to the Restriction Requirement, the Examiner has required that the Applicants elect a species for initial examination.

In response to the requirement for a species election, the Applicants elect the following species:

- 1) molecular modeling an antibody from a VH1-a1 allotype rabbit to identify surface exposed amino acids;
- 2) comparing the rabbit antibody framework sequence to human antibody framework sequences to identify the most similar human antibody;
- 3) substituting surface exposed amino acids in the rabbit antibody with corresponding amino acids in the human antibody, where the substitutes are not in the D-E loop region.

The Applicants further note that the Examiner states that the species encompassed by the claim are *distinct*.

The Applicants firstly note that as set forth in M.P.E.P. 802.01, "The term "distinct" means that two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art)." (upper case in the original)

The Examiner is directed towards the upper case wording in the preceding paragraph: *distinct* subjects are *novel and unobvious* over each other.

Accordingly, the Applicants note with gratitude the Examiner's indication that the elected species is patentable over other all other species encompassed by the claim.

The Applicants expressly reserve the right under 35 USC §121 to file a divisional

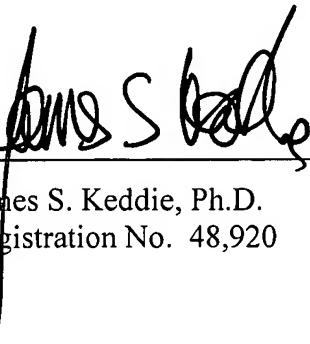
application directed to the non-elected subject matter or any subject matter disclosed in this application during the pendency of this application.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number EPIT-001.

Respectfully submitted,  
BOZICEVIC, FIELD & FRANCIS LLP

Date: June 26, 2006

By



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